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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/598,067	08/17/2006	Lalitha Agnihotri	NL 040234	9788

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PHILIPS INTELLECTUAL PROPERTY & STANDARDS
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EXAMINER	
HARVEY, DAVID E	

ART UNIT	PAPER NUMBER
2621	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/598,067	AGNIHOTRI ET AL.	
	Examiner	Art Unit	
	DAVID E. HARVEY	2621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 August 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5 and 7-10* is/are rejected.

7)☒ Claim(s) *6* is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *17 August 2006* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

1. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

2. The drawings are objected to because the "blocks" shown in Figures 1 and 2 are not functionally labeled. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

3. The examiner has construed the method of claim 1 as being, i.e., inherently, "tied to a machine"; e.g., video segments cannot be created as claimed without a machine.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> **The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.**

5. Claims 8-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A) In line 1 of claim 10, it is unclear as to what the term "computer program product" means and/or refers; i.e., whether it refers to a computer program per se. Clarification is needed.

B) Claim 8 is written in a "means-plus-function" which is assumed to invoke a section 112 interpretation; i.e., each "means" being construed as being limited to the specific structure disclosed therefor (and equivalents thereof). Turning to the instant specification, it is unclear as to where "specific structure" has been disclosed for each of the recited the recited means of claim 8 as is required. Clarification is needed.
Like clarification is needed for claim 9 given that it "incorporates" the recitations of claim 8 therein.

6. 35 U.S.C. 101 reads as follows:

> **Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.**

7. Claims 8 and 10 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

A) When read in light of the instant specification, the "unit" and "means" recitations of claim 8 appear to encompass "units" and "means" of computer software per se (e.g., note: lines 15-20 of page 1; and lines 24-27 of page 10) and, as such, appears to encompass non-statutory subject matter. That is, computer programming/software, per se, constitutes non-functional descriptive material and, as such, it is not: a process, a machine, a manufacture, or a composition of matter, as required under Section 101

B) As noted above, the "computer program product" of claim 10 appears to encompass computer programming/software per se and, as such, constitutes non-statutory subject matter. More specifically, a computer program/software, per se, constitutes non-functional descriptive material and, as such, it is not: a process, a machine, a manufacture, or a composition of matter, as required under Section 101

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> **(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.**

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

9. Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,828,809 to Chang et al. in view of US Patent #6,826,350 to Kashino et al.

A) The showing of Chang et al.:

As is shown in shown in Figure 1, Chang et al discloses a system which includes:

1) A source of A/V image frames (@ 30) representing segments (e.g., @ 38) of one or more video program streams;

2) A source (@ 42) of modeled video image data representing a "***further collection of relevant video images*** corresponding to the video program stream (@ 30);

3) Circuitry (@ 42) ***for retrieving the further collection of relevant video images;***

4) Circuitry (@ 40) for ***comparing*** the video frames of the program stream with the retrieved frames of the further collection for identifying and ***selecting*** first one(s) of the video frames of the stream that correspond thereto;

5) Circuitry (@ 44) for generating an index of relevant video segments on the basis of the selected one(s); and

6) Circuitry (e.g., @ 68 and 70 of Figurer 2) for using the generated index for ***creating*** a collection of one or more video segments for display/presentation. [Note: lines 11-67 of column 5; lines 1-36 of column 6; and claims 1 and 13-25 thereof).

B) Differences:

Claim 1 differs from the showing of Chang et al only in that the "further collection of relevant images" in Chang et al are "modeled" images as opposed to "real" images.

C) Obviousness:

Kashino et al. has been cited because, as is illustrated in Figures 1 and 8, it evidences the fact that it was known in the signal processing art [i.e., audio (as shown) and video (as described in lines 13-36 of column 25)] to have utilized "real" images to create the "templates" that constitute the "further collection" of images that are used to match/locate desired segments. The examiner maintains that it would have been obvious to one of ordinary skill in the art to have modified the system disclosed by Chang et al in accordance with the teachings of Kashino et al whereby the modeled data base (@ 42 of Figure 1) contains real video image data templates in stead of the modeled ones [note lines 38-44 of column 4 in Chang et al]; i.e., modeled vs. real video images templates having represented known alternatives.

10. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,828,809 to Chang et al. in view of US Patent #6,826,350 to Kashino et al. for the same reasons that were set forth above for claim 1. Additionally:

The examiner notes that, as used in the art, the term "fingerprinting" refers to the extraction of images "characteristics" that, via comparison, can be used to identify a desired image. Such is clearly provided in the modified system of Chang et al; despite the fact that the "fingerprinting" terminology itself is not used.

11. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,828,809 to Chang et al. in view of US Patent #6,826,350 to Kashino et al. for the same reasons that were set forth above for claim 1.

12. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,828,809 to Chang et al. in view of US Patent #6,826,350 to Kashino et al. for the same reasons that were set forth above for claim 1. Additionally:

e.g., Note lines 45-63 in column 6 of Chang et al.

13. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,828,809 to Chang et al. in view of US Patent #6,826,350 to Kashino et al. for the same reasons that were set forth above for claim 1. Additionally:

e.g., Note lines 45-63 in column 6 of Chang et al.

14. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,828,809 to Chang et al. in view of US Patent #6,826,350 to Kashino et al. for the same reasons that were set forth above for claim 1.

15. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,828,809 to Chang et al. in view of US Patent #6,826,350 to Kashino et al. for the same reasons that were set forth above for claim 1.

16. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,828,809 to Chang et al. in view of US Patent #6,826,350 to Kashino et al. for the same reasons that were set forth above for claim 8. Additionally:

As shown in Figure 2 of Chang et al:

1) The segments are retrieved and indexed from a storage device comprised of video tape (via elements 60-68); and

2) Selected ones of the segments are then compiled for display (@ 70).

17. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,828,809 to Chang et al. in view of US Patent #6,826,350 to Kashino et al. for the same reasons that were set forth above for claim 1.

The examiner takes Official Notice that it was notoriously well known in the signal processing art that processing system can be implemented using dedicated circuitry or general purpose computer(s) program with a computer program product". It would have been obvious to one of ordinary skill in the art to have implemented the modified system of Chang et al using software given the well known advantages associated therewith: e.g., ease of updating, reduced cost, etc,…

18. The following references are noted because they are directed to recording systems that utilize images characteristics to determined data to be recorded:

A) US Patent #7,474,698 to Pan et al.;

B) US Patent #5,901,246 to Hoffberg et al;

C) US Patent #7,590,333 to Janevski;

D) US Patent #6,577,346 to Perlman;

E) US Patent #5,999,689 to Iggulden;

F) US Patent #5,668,917 to Lewine;

G) US Patent #5,488,425 to Grimes.

19. Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

20. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DAVID E. HARVEY whose telephone number is (571) 272-7345. The examiner can normally be reached on M-F from 6:00AM to 3PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Peter-Anthony Pappas, can be reached on (571) 272-7646. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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